

**DISTRICT OF COLUMBIA**  
*OFFICIAL CODE*

**2001 EDITION**

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Volume 13

Title 25

Alcoholic Beverages

to

Title 28

Commercial Instruments and Transactions  
Subtitle I, Articles 1 to 3

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# PREFACE

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These annual cumulative pocket parts update the District of Columbia Official Code, 2001 Edition, with permanent, temporary, and emergency legislation and judicial constructions contained in annotations. These pocket parts contain the Laws, general and permanent in their nature, relating to or in force in the District of Columbia (except such laws as are of application in the General and Permanent Laws of the United States) in effect as of April 1, 2013.

This Supplement also updates the D.C. Code annotations by including notes taken from District of Columbia cases appearing in the following sources: Atlantic Reporter, 3d Series Supreme Court Reporter Federal Reporter, 3d Series Federal Supplement, 2d Series Bankruptcy Reporter.

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Later laws and annotations will be cumulated in subsequent annual Pocket Parts.

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LEXISNEXIS



# DIVISION V. LOCAL BUSINESS AFFAIRS.

## TITLE 25. ALCOHOLIC BEVERAGES.

### Chapter

1. General Provisions and Classification of Licenses.
3. Requirements To Qualify For License.
7. Standards of Operation.
8. Enforcement, Infractions, and Penalties.

### CHAPTER 1. GENERAL PROVISIONS AND CLASSIFICATION OF LICENSES.

#### *Subchapter II. Classification of Licenses*

Sec.

25-110. Manufacturer's licenses.

Sec.

25-118. Tasting permit requirements and qualifications.

#### *Subchapter I. General Provisions.*

### § 25-101. Definitions.

**Section references.** — This section is referenced in § 7-742, § 7-745, § 7-1702, § 7-1708, and § 25-113.

**Emergency legislation.**

For temporary amendment of section, see

§ 2(a) of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

#### *Subchapter II. Classification of Licenses.*

### § 25-110. Manufacturer's licenses.

(a) The following licenses shall be issued to manufacturers of alcoholic beverages:

(1)(A) A manufacturer's license, class A, shall authorize the licensee to:

(i) Operate a rectifying plant, at the place therein described, for the manufacture of the products of rectification by purifying or combining alcohol, spirits, wine, or beer; a distillery for the manufacture of alcohol or spirits by distillation or redistillation; or a winery for the manufacture of wine; and

(ii) Sell the products manufactured under the license from the licensed establishment to another licensee under this title for resale or to a dealer licensed under the law of any state or territory of the United States for resale or to a consumer. The licensee may sell spirits to the consumer only in barrels and sealed bottles, which shall not be opened after sale or the contents consumed on the premises where sold.

(B) A manufacturer operating a facility where more than 50% of alcohol produced is sold for nonbeverage purposes qualifies for a reduced license rate.

(2)(A) A manufacturer's license, class B, shall authorize the licensee to operate a brewery for the manufacture of beer at the establishment described in the license.



(B) The license shall authorize the licensee to sell the beer manufactured under the license to (i) another licensee under this title for resale; (ii) to a dealer licensed under the laws of any state or territory of the United States for resale; and (iii) to a consumer. The licensee may sell beer to the consumer only in barrels, kegs, and sealed bottles, which shall not be opened after sale, or the contents consumed, on the premises where sold.

(b) A separate license shall be required for each establishment under subsection (a)(1)(A)(i) of this section.

(Jan. 24, 1934, 48 Stat. 324, ch. 4, § 11; Apr. 30, 1934, 48 Stat. 654, ch. 181, § 1; June 18, 1934, 48 Stat. 997, ch. 588; July 2, 1935, 49 Stat. 444, ch. 359; Aug. 27, 1935, 49 Stat. 898, 899, ch. 756, §§ 3-7; June 15, 1938, 52 Stat. 691, ch. 396, §§ 1, 2; May 27, 1949, 63 Stat. 133, ch. 146, title V, § 501; June 29, 1953, 67 Stat. 103, ch. 159, § 404(d); May 31, 1962, 76 Stat. 89, Pub. L. 87-470, § 1; Dec. 8, 1970, 84 Stat. 1393, Pub. L. 91-535, § 2; Apr. 6, 1977, D.C. Law 1-102, § 2(a), (b), 23 DCR 8732; Apr. 18, 1978, D.C. Law 2-73, § 3, 24 DCR 7066; Mar. 5, 1981, D.C. Law 3-157, § 2(b), 27 DCR 5117; Sept. 29, 1982, D.C. Law 4-157, §§ 6, 15, 29 DCR 3617; Mar. 10, 1983, D.C. Law 4-204, § 2, 30 DCR 185; Aug. 2, 1983, D.C. Law, 5-16, § 3, 30 DCR 3193; Mar. 8, 1984, D.C. Law 5-51, § 2(a), 30 DCR 5927; Mar. 7, 1987, D.C. Law 6-217, § 5, 34 DCR 907; Aug. 17, 1991, D.C. Law 9-40, § 2(b), 38 DCR 4974; May 24, 1994, D.C. Law 10-122, § 2(e), 41 DCR 1658; Mar. 26, 1999, D.C. Law 12-202, § 2(b), 45 DCR 8412; Apr. 20, 1999, D.C. Law 12-261, § 2003(q)(1), 46 DCR 3142; May 3, 2001, D.C. Law 13-298, § 101, 48 DCR 2959; Sept. 20, 2012, D.C. Law 19-168, § 2112(a), 59 DCR 8025.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-168, in (a)(1)(A)(ii), added “or to a consumer” in the first sentence and added the second sentence.

**Emergency legislation.**

For temporary amendment of the subchapter heading, see § 2(b) of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

**Legislative history of Law 19-168.** — Law 19-168, the “Fiscal Year 2013 Budget Support Act of 2012,” was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

## § 25-112. Off-premises retailer’s licenses.

**Section references.** — This section is referenced in § 2-1212.01 and § 8-102.01.

**Emergency legislation.** — For temporary amendment of section, see § 2(c) of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

bus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

## § 25-113. On-premises retailer’s licenses.

**Section references.** — This section is referenced in § 7-743, § 8-102.01, § 25-101, § 25-112, and § 47-2404.

**Emergency legislation.**

For temporary amendment of (a), (i), and (j),

see § 2(d) of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).



## § 25-115. Temporary license requirements and qualifications.

**Section references.** — This section is referenced in § 1-309.10 and § 25-104.

**Emergency legislation.**

For temporary addition of (f), see § 2(e) of the

Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

## § 25-117. Brew pub permit requirements and qualifications.

**Emergency legislation.** — For temporary amendment of (a)-(c) and addition of (a-1), see § 2(f) of the Omnibus Alcoholic Beverage Reg-

ulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

## § 25-118. Tasting permit requirements and qualifications.

(a) A tasting permit shall be issued only to a licensee under a manufacturer's license, class A and B, a retailer's license, class A and B, or an applicant which is a full service grocery store and meets the requirements of § 25-303(c)(1), (2), and (3), to utilize a portion of their licensed premises for the tasting of products as listed in subsection (c) of this section.

(b) Containers of alcoholic beverages used for sampling purposes shall be labeled as such and may not be sold.

(c) A licensee shall not provide to a customer, in one day, samples greater than the following quantities:

- (1) 3 ounces of spirits;
- (2) 6 ounces of wines; and
- (3) 12 ounces of beer.

(d) A tasting permit shall be valid for 3 years.

(e) The holder of a manufacturer's license, class A, may utilize a portion of the licensed premises for the sampling of spirits, and the holder of a manufacturer's license, class B, may utilize a portion of the licensed premises for the sampling of beer, between the hours of 1:00 p.m. and 9:00 p.m., Thursday through Saturday.

(May 3, 2001, D.C. Law 13-298, § 101, 48 DCR 2959; Sept. 30, 2004, D.C. Law 15-187, § 101(d), 51 DCR 6525; July 18, 2008, D.C. Law 17-201, § 2(e), 55 DCR 6289; Oct. 20, 2011, D.C. Law 19-25, § 2, 58 DCR 6513; Sept. 20, 2012, D.C. Law 19-168, § 2112(b), 59 DCR 8025.)

**Effect of amendments.**

The 2012 amendment by D.C. Law 19-168 substituted "class A and B" for "class B" following "manufacturer's license" in (a); and in (e), added "The holder of a manufacturer's license,

class A, may utilize a portion of the licensed premises for the sampling of spirits, and" and added the comma following "sampling of beer."

**Legislative history of Law 19-168.** — See note to § 25-110.

## § 25-123. Farm winery retail license.

**Emergency legislation.** — For temporary addition of a section designated as § 25-124,

concerning wine pub permit requirements and qualifications, see § 2(g) of the Omnibus Alco-

holic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

## CHAPTER 2. ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION.

### § 25-211. Regulations.

**Section references.** — This section is referenced in § 25-113, § 25-402, § 25-403, § 25-431, § 25-433, § 25-502, § 25-506, and § 25-830.

**Emergency legislation.**

For temporary addition of a section designat-

ated as § 25-212, concerning a new licensee and general public orientation class, see § 2(h) of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

## CHAPTER 3. REQUIREMENTS TO QUALIFY FOR LICENSE.

### *Subchapter III. Denial of License*

Sec.  
25-340. Special restrictions for Ward 4. [Repealed].

Sec.

25-341. Targeted Ward 4 Moratorium Zone. [Repealed].

### *Subchapter I. Apparent Qualifications.*

### § 25-301. General qualifications for all applicants.

**Section references.** — This section is referenced in § 25-316, § 25-402, § 25-405, § 25-406, and § 25-410.

**Emergency legislation.**

For temporary addition of (a-1), see § 2(i) of

the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

### *Subchapter II. Qualification of Establishment.*

### § 25-315. Additional considerations for renewal of licenses.

**Section references.** — This section is referenced in § 25-313, § 25-316, and § 25-433.

**Emergency legislation.** — For temporary amendment of (b)(1), see § 2(j) of the Omnibus

Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

### *Subchapter III. Denial of License.*

### § 25-332. Moratorium on class B licenses.

**Section references.** — This section is referenced in § 25-112.

**Emergency legislation.**

For temporary amendment of (a), see § 2(k)

of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

**§ 25-340. Special restrictions for Ward 4. [Repealed].**

Repealed.

(Sept. 30, 2004, D.C. Law 15-187, § 101(o), 51 DCR 6525; Sept. 26, 2012, D.C. Law 19-171, § 81(a), 59 DCR 6190.)

**Legislative history of Law 19-171.** — Law 19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr.

17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

**§ 25-341. Targeted Ward 4 Moratorium Zone. [Repealed].**

Repealed.

(Sept. 30, 2004, D.C. Law 15-187, § 101(o), 51 DCR 6525; Aug. 15, 2008, D.C. Law 17-211, § 2(c), 55 DCR 6984; Sept. 26, 2012, D.C. Law 19-171, § 81(b), 59 DCR 6190.)

**Legislative history of Law 19-171.** — See note to § 25-340.

*Subchapter VI. Moratorium on Establishments Which Permit  
Nude Dancing.*

**§ 25-374. Transfer of location of establishments which permit nude dancing.**

**Temporary Amendment of Section.** — Section 2 of D.C. Law 19-129 added subsec. (a-1) to read as follows:

“(a-1) Notwithstanding subsection (a) of this section, no class CN license with nude dancing shall be issued in or transferred into Ward 5, as defined by § 1-1041.03; provided, that this section shall not prohibit the transfer of an existing CN license with nude dancing within Ward 5.”.

Section 4(b) of D.C. Law 19-129 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.**

For temporary addition of (a-1) and amendment of (f), see § 2(l) of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

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CHAPTER 4. APPLICATION AND REVIEW PROCESSES.

*Subchapter I. Application Requirements.*

**§ 25-402. New license application for manufacturer, wholesaler, or retailer.**

**Section references.** — This section is referenced in § 25-404 and § 25-433.

**Emergency legislation.**

For temporary amendment of (d) through (f),

see § 2(m) of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).



**§ 25-403. License renewal application for manufacturer, wholesaler, or retailer.**

**Emergency legislation.** — For temporary amendment of (e), (f) and (g), see § 2(n) of the Omnibus Alcoholic Beverage Regulation Emer-

gency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

*Subchapter II. Notice of Application Proceedings.*

**§ 25-421. Notice by Board.**

**Section references.** — This section is referenced in § 25-353, § 25-423, and § 25-446.

**Emergency legislation.** — For temporary addition of (a)(5), see § 2(o) of the Omnibus

Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

*Subchapter III. Review of License Applications.*

**§ 25-432. Standard review procedures.**

**Emergency legislation.** — For temporary amendment of (b)(1), see § 2(p) of the Omnibus Alcoholic Beverage Regulation Emergency

Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

**§ 25-433. Decisions of the board; petition for reconsideration.**

**Section references.** — This section is referenced in § 25-432.

**Emergency legislation.** — For temporary amendment of (c), see § 2(q)

of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

*Subchapter IV. Review and Resolution Procedures.*

**§ 25-446. Voluntary agreements; approval process, show cause hearing for violation.**

**Section references.** — This section is referenced in § 25-432 and § 25-722.

**Emergency legislation.** — For temporary amendment of section, see § 2(r) of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

For temporary addition of a section designated as § 25-446.01, concerning enforceable provisions in settlement agreements, see § 2(s)

of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

For temporary addition of a section designated as § 25-446.02, concerning unenforceable provisions in settlement agreements, see § 2(s) of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

## CHAPTER 5. ANNUAL FEES.

## § 25-501. Annual fees.

**Emergency legislation.** — For temporary addition of (f), see § 2(t) of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

## CHAPTER 6. PROTESTS, REFERENDUM, AND COMPLAINTS.

## § 25-601. Standing to file protest against a license.

**Section references.** — This section is referenced in § 25-211, § 25-351, and § 25-602.

**Emergency legislation.**

For temporary amendment of section, see § 2(u) of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

For temporary addition of a section designated as § 25-601.01, concerning certain documents to be made available, see § 2(v) of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

## § 25-609. ANC comments.

**Emergency legislation.** — For temporary amendment of section, see § 2(w) of the Omnibus Alcoholic Beverage Regulation Emergency

Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

## CHAPTER 7. STANDARDS OF OPERATION.

*Subchapter III. Hours; Noise Restrictions; Control of Litter*

Sec.  
25-722. Hours of sale and delivery for off-premises retail licensees.

Sec.  
25-723. Hours of sale and service for on-premises retail licensees and temporary licensees.

*Subchapter II. Posting of Signs.*

## § 25-711. Posting and carrying of licenses.

**Emergency legislation.** — For temporary amendment of (a), see § 2(x) of the Omnibus Alcoholic Beverage Regulation Emergency

Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

*Subchapter III. Hours; Noise Restrictions; Control of Litter.*

## § 25-722. Hours of sale and delivery for off-premises retail licensees.

(a) A licensee under an off-premises retailer's license, class A or B, may sell

and deliver alcoholic beverages only between the hours of 7:00 a.m. and midnight, Monday through Saturday, and during those same hours on December 24 and 31 of each year, subject to voluntary agreements pursuant to § 25-446.

(b) The Board may also permit a licensee under an off-premises retailer's license, class B, to sell or deliver alcoholic beverages between the hours of 7:00 a.m. and midnight on Sundays, subject to voluntary agreements pursuant to § 25-446.

(c) A licensee under a retailer's license, class B, which meets the requirements of § 25-303(c)(1) through (3), may also sell or deliver alcoholic beverages between the hours of 9:00 a.m. and 10:00 p.m. on Sundays and between the hours of 10:00 p.m. and midnight, Monday through Sunday, and on December 24 and December 31 of each year.

(May 3, 2001, D.C. Law 13-298, § 101, 48 DCR 2959; Sept. 30, 2004, D.C. Law 15-187, § 101(z), 51 DCR 6525; Sept. 14, 2011, D.C. Law 19-21, § 8122, 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 2052, 59 DCR 8025.)

**Section references.** — This section is referenced in § 25-123.

**Effect of amendments.**

The 2012 amendment by D.C. Law 19-168 substituted "7:00 a.m." for "9:00 a.m." in (a) and (b); added "subject to voluntary agreements pursuant to § 25-446" in (a); and added "subject to the voluntary agreements pursuant to § 25-446" in (b).

**Emergency legislation.**

For temporary amendment of (b), see § 2(y) of the Omnibus Alcoholic Beverage Regulation

Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

**Legislative history of Law 19-168.** — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

## § 25-723. Hours of sale and service for on-premises retail licensees and temporary licensees.

(a) The licensee under a hotel license may make available in the room of a registered adult guest, and charge to the registered guest if consumed, closed miniature containers of alcoholic beverages at all hours on any day of the week.

(b) Except as provided in § 25-724 and subsections (c), (d), and (e) of this section, the licensee under a on-premises retailer's license or a temporary license may sell or serve alcoholic beverages on any day and at any time except between the following hours:

(1) 2:00 a.m. and 8:00 a.m., Monday through Friday, excluding District and federal holidays; and

(2) 3:00 a.m. and 8:00 a.m. on Saturday and Sunday, excluding District and federal holidays.

(c)(1) Except as provided in § 25-724, the licensee under an on-premises retailer's license or a temporary license may sell or serve alcoholic beverages until 4:00 a.m. and operate 24 hours a day during the following times:

(A) On a District or federal holiday;

(B) The Saturday and Sunday preceding Memorial Day and Labor Day, as set forth in § 1-612.02(a)); and



(C) The Saturday and Sunday adjacent to January 1 (New Year's Day) and July 4 (Independence Day); except, that if the holiday under this subparagraph occurs on a Tuesday, Wednesday, or Thursday, this subparagraph shall not apply.

(2) A licensee operating under an on-premises retailer's license shall not be required to obtain Board approval to sell or serve alcoholic beverages and operate in accordance with paragraph (1) of this subsection.

(3) This subsection shall not apply during Inaugural Week, as defined in subsection (e) of this section.

(4) Once each calendar year and no fewer than 30 days before the first holiday on which a licensee seeks to extend its hours of operation pursuant to this subsection, the licensee shall provide written notification and a public safety plan to the Board and the Metropolitan Police Department of its intent to extend its hours of operation.

(d)(1) Except as provided in § 25-724, during the beginning of daylight savings time pursuant to § 28-2711, on the second Sunday in March of each year, a licensee under an on-premises retailer's license may sell and serve alcoholic beverages between 3:00 a.m. and 4:00 a.m., if the licensee:

(A) Registers with the Board;

(B) Pays a registration fee of \$200; and

(C) Provides written notification, no later than 10 days before the beginning of daylight savings time, to the Board and the Metropolitan Police Department of its extended hours of operation.

(2) The fees collected pursuant to this subsection shall be used to fund the Reimbursable Detail Subsidy Program in the ABRA.

(3) A violation of paragraph (1) of this subsection shall constitute a secondary tier violation subject to the penalties set forth in § 25-830(d).

(e)(1) Every 4 years, beginning in 2013, the week of January 15 through January 21, shall be designated "Inaugural Week." Except as provided in § 25-724, during Inaugural Week, a licensee under an on-premises retailer's license or a temporary license may sell or serve alcoholic beverages until 4 a.m. and operate 24 hours a day if the licensee:

(A) Provides written notification and a public safety plan, no later than January 7, to the Board and the Metropolitan Police Department of its hours of operation; and

(B) Pays the following fee for each day it will serve alcohol pursuant to this subsection:

(i) \$250 for a CN licensee;

(ii) \$100 for a CR or CT licensee; and

(iii) \$50 for any other licensee.

(2) A licensee operating under an on-premises retailer's license shall not be required to obtain Board approval to sell or serve alcoholic beverages until 4:00 a.m. and operate 24 hours a day during Inaugural Week.

(May 3, 2001, D.C. Law 13-298, § 101, 48 DCR 2959; Mar. 25, 2009, D.C. Law 17-361, § 2(c)(1), 56 DCR 1204; Sept. 14, 2011, D.C. Law 19-21, § 8142, 58 DCR 6226; Dec. 2, 2011, D.C. Law 19-45, § 2, 58 DCR 8937; Sept. 20, 2012, D.C. Law 19-168, § 2042(a), 59 DCR 8025.)

**Section references.** — This section is referenced in § 25-827.

**Effect of amendments.**

The 2012 amendment by D.C. Law 19-168 substituted “subsections (c), (d), and (e)” for “subsections (c) and (d)” in the introductory language of (b); substituted “Sunday, excluding” for “on” in (b)(2); deleted former (b)(3), which read: “3:00 a.m. and 8:00 a.m. on Sunday”; rewrote (c) and (d); added (e); and made related changes.

**Emergency legislation.**

For temporary amendment of (a) and (d), and addition of (f), see § 2(z) of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

For temporary amendment of (e)(1), see § 2 of the Inaugural Hours Emergency Act of 2012 (D.C. Act 19-614, January 14, 2013, 60 DCR 1298).

**Legislative history of Law 19-168.** — See note to § 25-722.

**Editor’s notes.** — Section 2043 of D.C. Law 19-168 provided: “Reporting Requirement. Within one year of the effective date of this subtitle, the Mayor shall transmit to the Council a report on the extensions of hours of operation for licensees licensed to sell and serve alcoholic beverages set forth in D.C. Official Code § 25-723(c), (d), and (e), and the effect of the extensions on liquor store hours, as set forth in the Off-Premises Alcohol Act of 2012, passed on 2nd reading on June 5, 2012 (Enrolled version of Bill 19-743), which shall include:

“(1) The effect of the extensions on local communities;

“(2) An assessment from the Metropolitan Police Department on the number of reported incidents related to the extensions;

“(3) An estimate from the Office of the Chief Financial Officer on the revenue implications of the extensions.”

## § 25-724. Board authorized to further restrict hours of operation.

**Section references.** — This section is referenced in § 25-123 and § 25-723.

**Emergency legislation.** — For temporary amendment of section, see § 2(aa) of the Om-

nibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

## § 25-725. Noise from licensed premises.

**Section references.** — This section is referenced in § 25-123 and § 25-313.

**Emergency legislation.** — For temporary amendment of (b), and addition of (d) and (e),

see § 2(bb) of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

### *Subchapter VII. Physical Space and Advertising.*

## § 25-763. Restrictions on use of signs.

**Temporary legislation.** — Section 6 of D.C. Law 19-181 amended (f) to read as follows:

“(f) In addition to the provisions of this section, signage shall be subject to section 1 of An Act To regulate the erection, hanging, placing, painting, display, and maintenance of outdoor signs and other forms of exterior advertising within the District of Columbia, approved March 3, 1931 (46 Stat. 1486; D.C. Official Code § 1-303.21), and any rules issued pursuant to that section.”

Section 8 of D.C. Law 19-181 provided that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

Section 9 of D.C. Law 19-181 provided that

sections 3, 4, 5, 6, and 7 of the act shall apply upon the Mayor’s issuance of a comprehensive final rulemaking governing signs on public space and private property pursuant to section 2 of the act.

Section 11(b) of D.C. Law 19-181 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 6 of the Sign Regulation Emergency Amendment Act of 2012 (D.C. Act 19-387, July 11, 2012, 59 DCR 8491).

For temporary amendment of (f), see § 6 of the Sign Regulation Congressional Review Emergency Amendment Act of 2012 (D.C. Act

19-499, October 26, 2012, 59 DCR 12749), applicable after the Mayor's issuance of a comprehensive final rulemaking governing signs on public space and private property, and with the

condition that any order, rule, or regulation in effect under a law replaced by this act shall remain in effect until repealed, amended, or superseded.

### *Subchapter IX. Minors and Intoxicated Persons.*

## **§ 25-783. Production of valid identification document required; penalty.**

**Emergency legislation.** — For temporary addition of (e), see § 2(cc) of the Omnibus Alcoholic Beverage Regulation Emergency

Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

### *Subchapter X. Temporary Surrender of License — Safekeeping.*

## **§ 25-791. Temporary surrender of license — Safekeeping.**

**Emergency legislation.** — For temporary addition of (c-1), see § 2(dd) of the Omnibus Alcoholic Beverage Regulation Emergency

Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

## CHAPTER 8. ENFORCEMENT, INFRACTIONS, AND PENALTIES.

### *Subchapter II. Revocation, Suspension, and Civil Penalties*

Sec.

25-832. Prompt notice of investigative reports.

Sec.

25-827. Request for suspension or revocation of license by Chief of Police.

### *Subchapter II. Revocation, Suspension, and Civil Penalties.*

## **§ 25-823. Prompt notice of investigative reports.**

**Emergency legislation.** — For temporary amendment of (6), see § 2(ee) of the Omnibus Alcoholic Beverage Regulation Emergency

Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

## **§ 25-826. Summary revocation or suspension.**

**Section references.** — This section is referenced in § 25-821 and § 25-827.

**Emergency legislation.** — For temporary amendment of (b), see § 2(ff) of the Omnibus

Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

## **§ 25-827. Request for suspension or revocation of license by Chief of Police.**

(a) The Chief of Police may request the suspension or revocation of a license if the Chief of Police determines that there is a correlation between increased incidents of crime within 1,000 feet of the establishment and the operation of



the establishment. The determination shall be based on objective criteria, including incident reports, arrests, and reported crime, occurring within the preceding 18 months and within 1,000 feet of the establishment.

(b) The Chief of Police may close an establishment for up to 96 hours, subject to a hearing and disposition by the Board under § 25-826 if he or she finds that:

(1) There is an additional imminent danger to the health and welfare of the public by not doing so; and

(2) There is no immediately available measure to ameliorate the finding in paragraph (1) of this subsection.

(c) The order of the Chief of Police to close an establishment under subsection (b) of this section shall terminate upon the disposition by the Board of the matter under § 25-826.

(d) The Chief of Police may, without a hearing, summarily revoke, suspend, or restrict a licensee's privilege to extended hours of operation under subsection § 25-723(c), (d), and (e) if the licensee's operation presents a demonstrated danger to the health, safety, or welfare of the public. A licensee may seek review of the summary revocation, suspension, or restriction pursuant to § 25-826(c) and (d).

(Jan. 24, 1934, 48 Stat. 330, ch. 4, § 17; Aug. 27, 1935, 49 Stat. 900, ch. 756, § 9; Aug. 25, 1937, 50 Stat. 803, ch. 766, § 3; Apr. 26, 1950, 64 Stat. 88, ch. 106; Dec. 8, 1970, 84 Stat. 1393, Pub. L. 91-535, § 3(a); Sept. 29, 1982, D.C. Law 4-157, §§ 9, 15, 29 DCR 3617; Mar. 8, 1984, D.C. Law 5-51, § 2(b)(5), 30 DCR 5927; Mar. 7, 1987, D.C. Law 6-217, § 11; 34 DCR 907; Sept. 11, 1993, D.C. Law 10-12, § 2(b), 40 DCR 4020; May 24, 1994, D.C. Law 10-122, § 2(h), 41 DCR 1658; Apr. 30, 1998, D.C. Law 12-97, § 2, 45 DCR 1517; May 3, 2001, D.C. Law 13-298, § 101, 48 DCR 2959; Sept. 23, 2005, D.C. Law 16-20, § 2(b), 52 DCR 6575; Sept. 20, 2012, D.C. Law 19-168, § 2042(b), 59 DCR 8025.)

**Section references.** — This section is referenced in § 25-832.

**Effect of amendments.**

The 2012 amendment by D.C. Law 19-168 added (d).

**Legislative history of Law 19-168.** — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and

assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

## § 25-830. Civil penalties.

**Section references.** — This section is referenced in § 25-113, § 25-723, § 25-797, § 25-801, and § 25-823.

**Emergency legislation.** — For temporary amendment of (c), and addition of (i) and (j), see

§ 2(gg) of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (D.C. Act 19-597, January 14, 2013, 60 DCR 1001).

## § 25-832. Prompt notice of investigative reports.

(a) ABRA shall provide a licensee with either an investigative report or a

public police incident report that may result in a show cause hearing as set forth in § 25-447 within 90 days of the date upon which the incident occurred.

(b) The requirement in subsection (a) of this section shall not apply where:

(1) Criminal action is being considered against the licensee or its employees; or

(2) Enforcement action is requested by the Chief of Police under § 25-827.

(Mar. 25, 2009, D.C. Law 17-361, § 2(d)(4), 56 DCR 1204; Sept. 26, 2012, D.C. Law 19-171, § 81(c), 59 DCR 6190.)

**Effect of amendments.** — The 2012 amendment by D.C. Law 19-171 added a colon at the end of the introductory language of (b).

**Legislative history of Law 19-171.** — Law 19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first

and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

## CHAPTER 10. LIMITATIONS ON CONSUMERS.

### § 25-1004. Prohibition on use of watercraft under certain conditions.

**Section references.** — This section is referenced in § 25-1007 and § 25-1008.

**Emergency legislation.**

For temporary (90 day) repeal of section, see § 302 of Comprehensive Impaired Driving and Alcohol Testing Program Emergency Amendment Act of 2012 (D.C. Act 19-429, July 30, 2012, 59 DCR 9387).

For temporary repeal of §§ 25-1004 through 25-1009, see § 302 of the Comprehensive Impaired Driving and Alcohol Testing Program Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-508, October 26, 2012, 59 DCR 13325).

### § 25-1005. Prohibition on use of watercraft under certain conditions — consent to testing.

**Section references.** — This section is referenced in § 25-1004.

**Emergency legislation.**

For temporary (90 day) repeal of section, see § 302 of Comprehensive Impaired Driving and Alcohol Testing Program Emergency Amendment Act of 2012 (D.C. Act 19-429, July 30, 2012, 59 DCR 9387).

For temporary repeal of section, see § 302 of the Comprehensive Impaired Driving and Alcohol Testing Program Congressional Review Emergency Amendment Act of 2012 (D.C. Act 19-508, October 26, 2012, 59 DCR 13325).

### § 25-1006. Prohibition on use of watercraft under certain conditions — Preliminary testing; admissibility of test results.

**Emergency legislation.**

For temporary (90 day) repeal of section, see § 302 of Comprehensive Impaired Driving and Alcohol Testing Program Emergency Amend-

ment Act of 2012 (D.C. Act 19-429, July 30, 2012, 59 DCR 9387).

For temporary repeal of section, see § 302 of the Comprehensive Impaired Driving and Alco-

hol Testing Program Congressional Review  
Emergency Amendment Act of 2012 (D.C Act  
19-508, October 26, 2012, 59 DCR 13325).

**§ 25-1007. Prohibition on use of watercraft under certain conditions — Penalties.**

**Emergency legislation.**

For temporary (90 day) repeal of section, see  
§ 302 of Comprehensive Impaired Driving and  
Alcohol Testing Program Emergency Amend-  
ment Act of 2012 (D.C. Act 19-429, July 30,  
2012, 59 DCR 9387).

For temporary repeal of section, see § 302 of  
the Comprehensive Impaired Driving and Alco-  
hol Testing Program Congressional Review  
Emergency Amendment Act of 2012 (D.C Act  
19-508, October 26, 2012, 59 DCR 13325).

**§ 25-1008. Prima facie evidence of intoxication.**

**Emergency legislation.**

For temporary repeal of section, see § 302 of  
the Comprehensive Impaired Driving and Alco-

hol Testing Program Congressional Review  
Emergency Amendment Act of 2012 (D.C Act  
19-508, October 26, 2012, 59 DCR 13325).

**§ 25-1009. Operation of locomotive, streetcar, elevator, or horse-drawn vehicle by intoxicated person prohibited.**

**Emergency legislation.**

For temporary (90 day) repeal of section, see  
§ 302 of Comprehensive Impaired Driving and  
Alcohol Testing Program Emergency Amend-  
ment Act of 2012 (D.C. Act 19-429, July 30,  
2012, 59 DCR 9387).

For temporary repeal of section, see § 302 of  
the Comprehensive Impaired Driving and Alco-  
hol Testing Program Congressional Review  
Emergency Amendment Act of 2012 (D.C Act  
19-508, October 26, 2012, 59 DCR 13325).



# TITLE 26. BANKS AND OTHER FINANCIAL INSTITUTIONS.

## Chapter

5B. Administration of the Banking Code.

13. Trust, Loan, Mortgage, Safe Deposit and Title Corporations.

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## CHAPTER 5B. ADMINISTRATION OF THE BANKING CODE.

### *Subchapter I. General Provisions*

Sec.

26-551.02. Definitions.

### *Subchapter II. Abolishment of Department of Banking and Financial Institutions; Commissioner of the Department of Banking and Financial Institutions*

26-551.05. General powers and responsibilities of the Commissioner.

### *Subchapter I. General Provisions.*

## § 26-551.02. Definitions.

For the purposes of this chapter, the term:

(1) “Affiliate” means a financial institution holding company under federal law or a subsidiary or service corporation of a financial institution holding company.

(2) “Appropriate federal financial institutions agency” means the federal agency with statutory authority over the financial institution activities of a financial institution.

(3) “Bank” means an institution that engages in the business of banking, including a trust company, savings bank, savings and loan association, and credit union.

(4) “Bank holding company” shall have the same meaning as set forth in section 2(a) of the Bank Holding Company Act of 1956, approved May 9, 1956 (70 Stat. 133; 12 U.S.C. § 1841(a)).

(5) “Business of banking” means activities and transactions involving banking, including: (A) receiving deposits, paying checks, and lending money; (B) activities of a bank which are supervised by the Commissioner; and (C) activities incidental, necessary, or convenient to banking.

(6) “Capital” means capital deposits, surplus, and undivided earnings.

(7) “Commissioner” means the Commissioner of the Department of Insurance, Securities, and Banking.

(7A) “Controlling interest” means:

(A) More than 50% of the total voting power of all classes of stock of a corporation or more than 50% of the total fair market value of all classes of stock of a corporation;

(B) More than 50% of the capital or profits in a partnership, association, or other unincorporated entity; or

(C) More than 50% of the beneficial interests in a trust.

(8) "Credit union" means a financial institution organized as a cooperative association with a limited membership and operating with insurance provided by the National Credit Union Administration.

(9) "Department" means the Department of Insurance, Securities, and Banking.

(10) "Director" means a director or trustee of an organization or a person with functions similar to the functions of a director or trustee.

(11) "District" means the District of Columbia.

(12) "District bank" means a bank chartered or organized under the District of Columbia Banking Code and under the authority and supervision of the Commissioner or a bank authorized to do business under the laws of the District.

(13) "District credit union" means a credit union chartered or organized under the District of Columbia Banking Code and under the authority and supervision of the Commissioner or a credit union authorized to do business under the laws of the District.

(14) "District of Columbia Banking Code" means the statutory provisions concerning banking and financial institutions which are codified in Title 26 of the District of Columbia Official Code, laws administered by the Commissioner, and rules and regulations promulgated under those statutory provisions and laws.

(15) "District savings institution" means a savings institution chartered or organized under the District of Columbia Banking Code and under the authority and supervision of the Commissioner or a savings institution authorized to do business under the laws of the District.

(16) "Executive officer" means a person who participates or has authority to participate, other than in the capacity of a director, in major policymaking functions of a financial institution, whether or not the person has an official title or receives compensation from the financial institution. The term "executive officer" shall not include a person who may exercise discretion in the performance of duties and functions, including discretion in the making of loans, if the person's exercise of discretion is limited by policy standards adopted by the board of directors of the financial institution and the person does not participate in major policymaking functions of the financial institution. The chair of the board, the president, chief executive officer, chief operating officer, chief financial officer, every executive vice president of a financial institution, and the senior trust officer of a trust company shall be presumed to be executive officers unless the person is excluded, by resolution of the board of directors or by the bylaws of the financial institution, from participating, other than in the capacity of a director, in major policymaking functions of the financial institution and the person does not actually participate in major policymaking functions of the financial institution.

(17) "Federal agency" means an agency of the United States of America.

(18) "Financial institution" means a bank, savings institution, credit union, foreign bank, trust company, non-depository financial institution, or

any other person which is regulated, supervised, examined, or licensed by the Department of Insurance, Securities, and Banking; which has applied to be regulated, supervised, examined, or licensed by the Department of Insurance, Securities, and Banking; which is subject to the regulation, supervision, examination, or licensure by the Department of Insurance, Securities, and Banking; or which is engaged in an activity covered by the District of Columbia Banking Code.

(19) “Non-depository financial institution” means a financial institution that is engaged in a regulated activity and that is not a bank or credit union.

(20) “Order” means an approval, consent, authorization, exemption, denial, prohibition, requirement, or other administrative action.

(21) “Person” means an individual, corporation, trust, joint venture, company, association, firm, partnership, society, joint stock company, pool syndicate, sole proprietorship, unincorporated organization, fiduciary business, or any other similar entity.

(22) “Regulated activity” means an activity authorized and regulated under the District of Columbia Banking Code and under the authority and supervision of the Commissioner.

(23) “Savings institution” means a savings and loan association or savings bank.

(24) “Subsidiary” means a company in which a person owns at least a majority of the shares or equity interest or which the person controls.

(June 9, 2001, D.C. Law 13-308, § 102, 48 DCR 3244; June 11, 2004, D.C. Law 15-166, § 2(a), 51 DCR 2817; June 20, 2012, D.C. Law 19-143, § 201(a), 59 DCR 4069.)

**Section references.** — This section is referenced in § 26-131.02, § 26-431.02, § 26-631, § 26-831.02, § 26-1151.01, § 26-1401.02, and § 31-103.

**Effect of amendments.**

D.C. Law 19-143 added par. (7A).

**Legislative history of Law 19-143.** — Law 19-143, the “DISB Fingerprint-Based Background Check Authorization Act of 2012”, was

introduced in Council and assigned Bill No. 19-198, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on March 6, 2012, and April 17, 2012, respectively. Signed by the Mayor on April 29, 2012, it was assigned Act No. 19-346 and transmitted to both Houses of Congress for its review. D.C. Law 19-143 became effective on June 20, 2012.

## *Subchapter II. Abolishment of Department of Banking and Financial Institutions; Commissioner of the Department of Banking and Financial Institutions.*

### **§ 26-551.05. General powers and responsibilities of the Commissioner.**

(a) The Commissioner shall:

(1) Administer the District of Columbia Banking Code;

(2) Promote and maintain a climate and regulatory framework that will encourage financial institutions to organize to do business in the District and contribute to the economic development of the District through the increased availability of capital and credit;



(3) Expand advantageous financial services to the public in a nondiscriminatory manner;

(4) Charter, regulate, supervise, and examine banks, savings institutions, credit unions, trust companies, and other financial institutions engaged, or seeking to engage, in the business of banking in the District;

(5) License, regulate, supervise, and examine non-depository financial institutions engaged in regulated activity in the District;

(6) Regulate the opening or closing of branches, agencies, offices, or other facilities by financial institutions under the authority and supervision of the Commissioner;

(7) Approve or disapprove mergers or acquisitions involving District financial institutions or financial institution holding companies;

(8) Monitor community development commitments of financial institutions chartered, organized, or doing business in the District;

(9) Approve or disapprove changes in control of financial institutions chartered or organized in the District;

(10) Approve or disapprove conversions of federally-chartered institutions into District-chartered financial institutions;

(11) Promulgate regulations, rules, policy statements, interpretations, and opinions necessary or appropriate to carry out the purposes of the District of Columbia Banking Code;

(12) Assure that all financial institutions engaged in regulated activity in the District, under the supervision or control of the Commissioner, or seeking to do business into the District of Columbia under the District of Columbia Banking Code provide financial services to the public in a manner that fosters the development and revitalization of housing and commercial corridors in underserved neighborhoods in the District, help meet the credit and deposit service needs of lower income and minority residents of the District, and expand financial and technical support for small, minority, and women-owned businesses;

(13) Investigate possible violations of the District of Columbia Banking Code and take any authorized action upon finding a violation;

(14) Examine or audit a financial institution, bank holding company, affiliate, or subsidiary to assure that the financial institution bank holding company, affiliate, or subsidiary is operating in compliance with the law and in a manner that preserves safety and soundness;

(15) Request or pursue a restraining order, the appointment of a receiver or conservator, the involuntary dissolution of a corporation, or the freezing or seizure of assets of a person associated with a violation or possible violation of the District of Columbia Banking Code;

(16) In all respects permitted by law, act as the District government's regulatory authority for financial institutions operating in the District; and

(17) Recommend to the Mayor annually, or at any other time, any necessary changes to District laws dealing with banking or other areas within the jurisdiction of the Commissioner.

(b) The Commissioner shall be responsible for the performance of all duties, the exercise of all powers and jurisdiction, and the assumption and discharge

of all responsibilities vested by law in the Department or the Commissioner. The Commissioner shall have all powers necessary or convenient for the administration and enforcement of the District of Columbia Banking Code.

(b-1)(1) To determine a financial institution's eligibility to conduct a regulated activity under the District of Columbia Banking Code, the Commissioner may require each organizer, partner, director, officer, and owner with a controlling interest in the financial institution to submit to the Commissioner his or her fingerprints, contact information, and other identifying information, along with written consent to the performance of a criminal history record background check.

(2) The Commissioner may exchange the fingerprints and other information with, and receive criminal history record background information from, the Metropolitan Police Department and the Federal Bureau of Investigation for the purposes of facilitating the Commissioner's determination.

(3) The individual or financial institution associated with the regulated activity requiring the Commissioner's determination shall bear the cost of the criminal history record background check and all costs of administering and processing the background check.

(c) The Commissioner may promulgate rules and regulations necessary or appropriate to the execution of the Commissioner's powers, duties, and responsibilities.

(d) The Commissioner may enter into agreements that the Commissioner considers necessary or appropriate to the exercise of his or her powers, including agreements with agencies or instrumentalities of the District, states and territories of the United States of America, or the federal government, for the examination of banks, savings institutions, credit unions, trust companies, and other financial institutions.

(e) The Commissioner, in the performance of the duties and responsibilities of the Department, may enter into contracts with the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, District agencies, other state or federal banking agencies, or any other entity, for those services necessary to carry out the duties and responsibilities of the Commissioner and the Department.

(f) The Commission may establish and modify fees to implement the District of Columbia Banking Code.

(June 9, 2001, D.C. Law 13-308, § 105, 48 DCR 3244; Apr. 13, 2005, D.C. Law 15-354, § 35(b), 52 DCR 2638; June 20, 2012, D.C. Law 19-143, § 201(b), 59 DCR 4069.)

**Section references.** — This section is referenced in § 31-103.

**Effect of amendments.**

D.C. Law 19-143 added subsec. (b-1).

**Legislative history of Law 19-143.** — For history of Law 19-143, see notes under § 26-551.02.

CHAPTER 11A. HOME LOAN PROTECTION.

*Subchapter II. Prohibited Practices.*

§ 26-1152.13. Limitations on balloon payments.

CASE NOTES

**Business loans.**

Loan that was obtained for property that was rented out by promisor was not a “covered loan” under District of Columbia Home Loan Protection Act (HLPa), although loan contained a

balloon payment, where note was a business loan secured by promisor’s rental property. *Onyeoziri v. Spivok*, 44 A.3d 279, 2012 D.C. App. LEXIS 269 (2012).

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CHAPTER 13. TRUST, LOAN, MORTGAGE, SAFE DEPOSIT AND TITLE CORPORATIONS.

*Subchapter I. General*

Sec.  
26-1309. Powers of companies; liability as trustee.

Sec.  
26-1333. Security required for performance of fiduciary duties; liability thereon.  
26-1334. Powers of probate court.

*Subchapter I. General.*

§ 26-1309. Powers of companies; liability as trustee.

All companies organized under this chapter are hereby declared to be corporations possessed of the powers and functions of corporations generally, and shall have power:

- (1) To make contracts;
- (2) To sue and be sued, plead and be impleaded, in any court as fully as natural persons;
- (3) To make and use a common seal and alter the same at pleasure;
- (4) To loan money; and
- (5) When organized under clause (1) of § 26-1301, to accept and execute trusts of any and every description which may be committed or transferred to them, and to accept the office and perform the duties of receiver, assignee, personal representative, special administrator, guardian of the estate of minors with the consent of the guardian of the person of such minor, and committee of the estates of people with mental illness or intellectual disabilities whenever any trusteeship or any such office or appointment is committed or transferred to them, with their consent, by any person, body politic or corporate, or by any court in the District of Columbia; and all such companies organized under clause (1) of § 26-1301 are further authorized to accept deposits of money for the purposes designated herein, upon such terms as may be agreed upon from time to time with depositors, and to act as agent for the purpose of issuing or countersigning the bonds or obligations of any corporation, association, municipality, or state, or other public authority, and to



receive and manage any sinking fund on any such terms as may be agreed upon, and shall have power to issue its debenture bonds upon deeds of trust or mortgages of real estate to a sum not exceeding the face value of said deeds of trust or mortgages, and which shall not exceed 50 percent of the fair cash value of the real estate covered by said deeds or mortgages, to be ascertained by the Superintendent of Banking and Financial Institutions [Commissioner of the Department of Insurance, Securities, and Banking]; but no debenture bonds shall be issued until the securities on which the same are based have been placed in the actual possession of the trustee named in the debenture bonds, who shall hold said securities until all of said bonds are paid; and when organized under clause (2) of § 26-1301 said company is authorized to insure titles to real estate and to transact generally the business mentioned in said clause; and when organized under clause (3) of § 26-1301 said company is hereby authorized, in addition to the loan and mortgage business therein mentioned, to secure, guarantee, and insure individuals, bodies politic, associations, and corporations against loss by or through trustees, agents, servants, or employees, and to guarantee the faithful performance of contracts and obligations of whatever kind entered into by or on the part of any person or persons, association, corporation, or corporations, and against loss of every kind; provided, that any corporations formed under the provisions of this chapter when acting as trustee shall be liable to account for the amounts actually earned by the moneys held by it in trust in addition to the principal so held; but such corporation may be allowed a reasonable compensation for services performed in the care of the trust estate.

(Mar. 3, 1901, 31 Stat. 1304, ch. 854, § 721; June 24, 1980, D.C. Law 3-72, § 207(a), 27 DCR 2155; Nov. 23, 1985, D.C. Law 6-63, § 106(a)(8), as added Apr. 11, 1986, D.C. Law 6-107, § 2(k), 33 DCR 1168; Apr. 9, 1997, D.C. Law 11-255, § 24(c), 44 DCR 1271; Apr. 24, 2007, D.C. Law 16-305, § 38, 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 23(b), 59 DCR 5567.)

**Effect of amendments.**

The 2012 amendment by D.C. Law 19-169 substituted “intellectual disabilities” for “mental retardation” in (5).

**Legislative history of Law 19-169.** — Law 19-169, the “People First Respectful Language Modernization Amendment Act of 2012,” was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and sec-

ond readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

**Editor’s notes.** — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

## § 26-1333. Security required for performance of fiduciary duties; liability thereon.

No bond or other collateral security, except as hereinafter stated, shall be required from any trust company incorporated under this chapter for and in respect to any trust, nor when appointed trustee, guardian, receiver, personal representative, special administrator, committee of the estate of a person with a mental illness or an intellectual disability, or other fiduciary appointment; but the capital stock subscribed for or taken, and all property owned by said

company and the amount for which said stockholders shall be liable in excess of their stock, shall be taken and considered as the security required by law for the faithful performance of its duties, and shall be absolutely liable in case of any default whatever; and in case of the insolvency or dissolution of said company, the debts due from the said company as trustee, guardian, receiver, personal representative, special administrator, or committee of the estate of a person with mental illness or an intellectual disability or any other fiduciary appointment shall have a preference.

(Mar. 3, 1901, 31 Stat. 1309, ch. 854, § 745; June 24, 1980, D.C. Law 3-72, § 207(g), 27 DCR 2155; Apr. 24, 2007, D.C. Law 16-305, § 39(b), 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 23(c), 59 DCR 5567.)

**Effect of amendments.**

The 2012 amendment by D.C. Law 19-169 substituted “an intellectual disability” for “mental retardation” both times it appears

**Legislative history of Law 19-169.** — Law 19-169, the “People First Respectful Language Modernization Amendment Act of 2012,” was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and sec-

ond readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

**Editor’s notes.** — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

**§ 26-1334. Powers of probate court.**

The court having probate jurisdiction, or any judge thereof, shall have power to make orders respecting such company whenever it shall have been appointed trustee, guardian, receiver, personal representative, special administrator, committee of the estate of a person with mental illness or an intellectual disability or any other fiduciary, and require the said company to render all accounts which might lawfully be made or required by any court or any judge thereof if such trustee, guardian, receiver, personal representative, special administrator, committee of the estate of a person with mental illness or an intellectual disability or fiduciary were a natural person. And said court, or any judge thereof, at any time, on application of any person interested, may appoint some suitable person to examine into the affairs and standing of such companies, who shall make a full report thereof to the court, and said court, or any judge thereof, may at any time, in its discretion, require of said company a bond with sureties or other security for the faithful performance of its obligations, and such sureties or other security shall be liable to the same extent and in the same manner as if given or pledged by a natural person.

(Mar. 3, 1901, 31 Stat. 1309, ch. 854, § 746; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(a), (b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 576, Pub. L. 91-358, title I, § 158(c)(4); June 24, 1980, D.C. Law 3-72, § 207(h), 27 DCR 2155; Apr. 24, 2007, D.C. Law 16-305, § 39(c), 53 DCR 6198; Sept. 26, 2012, D.C. Law 19-169, § 23(d), 59 DCR 5567.)

**Effect of amendments.**

The 2012 amendment by D.C. Law 19-169

substituted “an intellectual disability” for “mental retardation” both times it appears.

**Legislative history of Law 19-169.** — Law 19-169, the “People First Respectful Language Modernization Amendment Act of 2012,” was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May

15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

**Editor’s notes.** — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.



# TITLE 28. COMMERCIAL INSTRUMENTS AND TRANSACTIONS

## SUBTITLE I. UNIFORM COMMERCIAL CODE.

### ARTICLE 2. SALES.

#### *Part 2. Form, Formation and Readjustment of Contract.*

#### **§ 28:2-209. Modification, rescission and waiver.**

##### LAW REVIEWS AND JOURNAL COMMENTARIES

Ipsé Dixit: The Restatement (Second) of Contracts and the Modern Development of Contract Law. 66 Geo.Wash.L.Rev. 508 (1998).

#### **§ 28:2-210. Delegation of performance; assignment of rights.**

##### CASE NOTES

##### **Actions of assignee.**

Higher prices and direct debiting by franchisor were anticipated and permitted by original franchise contract, and thus assignment did not materially increase burdens or risks for franchisee with respect to those issues, and did not violate District of Columbia Retail Service Station Amendment Act (RSSA), where that contract stated that prices were “subject to change at any time and without notice,” method of payment could include automated direct debit “or any other method as designate[d] from

time to time,” franchisor could assign any or all of its rights or interests, without restriction, to any person or entity, and assignment by franchisor could affect franchisee’s rights and obligations under agreement to extent that assignee had policies or programs different from franchisor’s. *Metroil, Inc. v. ExxonMobil Oil Corp.*, 672 F.3d 1108, 2012 U.S. App. LEXIS 5712 (C.A.D.C. 2012).

*Part 3. General Obligation and Construction of Contract.*

#### **§ 28:2-316.01. Limitation of exclusion or modification of warranties consumers.**

##### LAW REVIEWS AND JOURNAL COMMENTARIES

Commercial Law: Changes in Implied Warranty Disclaimers. 32 Cath.U.L.Rev. 1009, (1983).



















